



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
 UNITED STATES PATENT AND TRADEMARK OFFICE
 WASHINGTON, D.C. 20231
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| APPLICATION NUMBER | FILING/RECEIPT DATE | FIRST NAMED APPLICANT | ATTORNEY DOCKET NUMBER |
|--------------------|---------------------|-----------------------|----------------------------|
| 09/961,086 | 09/21/2001 | Douglas D. Ross | 10460-7U1 (053836-5001-01) |

028977
 MORGAN, LEWIS & BOCKIUS LLP
 1701 MARKET STREET
 PHILADELPHIA, PA 19103-2921

CONFIRMATION NO. 6592

FORMALITIES LETTER



OC000000007605672

Date Mailed: 03/08/2002

NOTICE OF OMITTED ITEM(S) IN A NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

A filing date has been accorded to the above-identified nonprovisional application papers; however, the following item(s) appear to have been omitted from the application:

- Figure(s) 2C-2, 4D-1, 4D-2, 5 described in the specification.

I. Should applicant contend that the above-noted omitted item(s) was in fact deposited in the U.S. Patent and Trademark Office (USPTO) with the nonprovisional application papers, a copy of this Notice and a petition (and \$130.00 petition fee (37 CFR 1.17(h))) with evidence of such deposit **must** be filed within **TWO MONTHS** of the date of this Notice. The petition fee will be refunded if is determined that the item(s) was received by the USPTO.

II. Should applicant desire to supply the omitted item(s) and accept the date that such omitted item(s) was filed in the USPTO as the filing date of the above-identified application, a copy of this Notice, the omitted item(s) (with a supplemental oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items), and a petition under 37 CFR 1.182 (with the \$130.00 petition fee (37 CFR 1.17(h))) requesting the later filing date **must** be filed within **TWO MONTHS** of the date of this Notice.

III. The failure to file a petition (and petition fee) under the above options (I) or (II) within **TWO MONTHS** of the date of this Notice (37 CFR 1.181(f)) will be treated as a constructive acceptance by the applicant of the application as deposited in the USPTO. **THIS TWO MONTH PERIOD IS NOT EXTENDABLE UNDER 37 CFR 1.136(a) OR (b).** In the absence of a timely filed petition in reply to this Notice, the application will maintain a filing date as of the date of deposit of the application papers in the USPTO, and original application papers (i.e., the original disclosure of the invention) will include only those application papers present in the USPTO on the date of deposit.

In the event that applicant elects not to take action pursuant to options (I) or (II) above (thereby constructively electing option (III)), amendment of the specification to renumber the pages consecutively and cancel incomplete sentences caused by any omitted page(s), and/or amendment of the specification to cancel all references to any omitted drawing(s), relabel the drawing figures to be numbered consecutively (if necessary), and correct the references in the specification to the drawing figures to correspond with any relabelled drawing figures, is required. Any drawing changes should be accompanied by a copy of the drawing figures showing the proposed changes in red ink. Such amendment and/or correction to the drawing figures, if necessary, should be by way of preliminary amendment submitted prior to the first Office action to avoid delays in the prosecution of the application.

*A copy of this notice **MUST** be returned with the reply.*



Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE



Patent
Attorney's Docket No. 028754-039

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of)
Douglas ROSS et al) Group Art Unit: Unassigned
Application No.: 09/961,086) Examiner: Unassigned
Filed: September 21, 2001)
For: BREAST CANCER RESISTANCE)
PROTEIN (BCRP) AND THE DNA)
WHICH ENCODES IT)

TECH CENTER 1600/2900
MAY 08 2002

RECEIVED

RESPONSE TO NOTICE OF OMITTED ITEMS

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

In response to the Notice of Omitted Items mailed March 8, 2002, Applicants assert that Figures 2C-2, 4D-1, 4D-2 and 5 were submitted with the application as originally filed on September 21, 2001. Further, the Figures were re-submitted in publication-quality format in the Response to the Notice to File Missing Parts, filed December 10, 2001.

Applicants enclose herewith a copy of the postcards listing all relevant enclosures, including the above-identified drawing sheets, for both the as-filed application and the Response to the Notice to File Missing Parts, which were stamped as received by the United States Patent and Trademark Office and returned to Applicants as an acknowledgment that the papers listed on the postcard were received. Applicants also enclose a copy of the above-identified figures as originally filed and as filed in Response to the Notice to File Missing Parts. A copy of the Notice of Omitted Items is also enclosed.

Application No. 09/961,086
Attorney's Docket No. 028754-039
Page 2

and the Office is authorized to withdraw the petition fee of \$130.00 from the firm's deposit account No. 02-4800 (billing no. 028754-039).

Applicants respectfully request that the original filing date, September 21, 2001, be accorded to the entire application, including the above-identified figures. In addition, it is requested that the United States Patent and Trademark Office acknowledge previous receipt of the omitted items and refund the petition fee as soon as possible.

Applicants also request that the undersigned be contacted in the event that the present submissions do not overcome the burden of proof of previous submission of Figures 2C-2, 4D-1, 4D-2, and 5.

Respectfully submitted,

BURNS, DOANE, SWECKER & MATHIS, L.L.P.

By: Jennifer Topmiller
Jennifer A. Topmiller, Ph.D.
Registration No. 50,435

P.O. Box 1404
Alexandria, Virginia 22313-1404
(703) 836-6620

Date: May 6, 2002

Patent
Attorney's Docket No. 028754-039



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of)
Douglas ROSS et al) Group Art Unit: 1642
Application No.: 09/961,086) Examiner: Unassigned
Filed: September 21, 2001)
For: BREAST CANCER RESISTANCE)
PROTEIN (BCRP) AND THE DNA)
WHICH ENCODES IT)

MAY 08 2002
TECH CENTER 1600/2600

RECEIVED

REPLY TRANSMITTAL LETTER

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

Enclosed is a Response to Notice of Omitted Items for the above-identified patent application.

- A Petition for Extension of Time is also enclosed.
- A Terminal Disclaimer and a check for [] \$55.00 (248) [] \$110.00 (148) to cover the requisite Government fee are also enclosed.
- Also enclosed is Revocation & New Power of Attorney by Assignee of Entire Interest .
- Small entity status is hereby claimed.
- Applicant(s) request continued examination under 37 C.F.R. § 1.114 and enclose the [] \$370.00 (279) [] \$740.00 (179) fee due under 37 C.F.R. § 1.17(e).
- Applicant(s) previously submitted ___, on ___, for which continued examination is requested.
- Applicant(s) request suspension of action by the Office until at least ___, which does not exceed three months from the filing of this RCE, in accordance with 37 C.F.R. § 1.103(c). The required fee under 37 C.F.R. § 1.17(i) is enclosed.
- A Request for Entry and Consideration of Submission under 37 C.F.R. § 1.129(a) (146/246) is also enclosed.
- No additional claim fee is required.

Amendment/Reply Transmittal Letter
 Application No. 09/961,086
 Attorney's Docket No. 028754-039
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An additional claim fee is required, and is calculated as shown below:

| AMENDED CLAIMS | | | | | |
|--|---------------|---|--------------|-------------------|------------|
| | NO. OF CLAIMS | HIGHEST NO. OF CLAIMS PREVIOUSLY PAID FOR | EXTRA CLAIMS | RATE | ADDT'L FEE |
| Total Claims | | MINUS = | | × \$18.00 (103) = | |
| Independent Claims | | MINUS = | | × \$84.00 (102) = | |
| If Amendment adds multiple dependent claims, add \$280.00 (104) | | | | | |
| Total Amendment Fee | | | | | |
| If small entity status is claimed, subtract 50% of Total Amendment Fee | | | | | |
| TOTAL ADDITIONAL FEE DUE FOR THIS AMENDMENT | | | | | |

A claim fee in the amount of \$ _____ is enclosed.

Charge \$ _____ to Deposit Account No. 02-4800.

The Commissioner is hereby authorized to charge any appropriate fees under 37 C.F.R. §§ 1.16, 1.17, 1.20(d) and 1.21 that may be required by this paper, and to credit any overpayment, to Deposit Account No. 02-4800. This paper is submitted in duplicate.

Respectfully submitted,

BURNS, DOANE, SWECKER & MATHIS, L.L.P.

By:

Jennifer Topmiller
 Jennifer A. Topmiller
 Registration No. 50,435

P.O. Box 1404
 Alexandria, Virginia 22313-1404
 (703) 836-6620

Date: May 6, 2002